

AMENDED IN SENATE MAY 23, 2012

AMENDED IN ASSEMBLY JANUARY 26, 2012

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 467

Introduced by Assembly Member Eng
(Principal coauthor: Assembly Member Roger Hernández)
(Coauthor: Assembly Member Portantino)
(Coauthors: Senators Hernandez and Huff)

February 15, 2011

An act to amend Section 75101 of the Public Resources Code, relating to the environment, *making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 467, as amended, Eng. Environment: Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

(1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative statute approved by the voters at the November 7, 2006, statewide general election, makes approximately \$5.4 billion in bond funds available for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. The bond act makes \$60,000,000 available to the State Department of Public Health for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water and requires the department to require repayment for costs that are

subsequently recovered from parties responsible for the contamination. Existing law requires the State Department of Public Health, in collaboration with the Department of Toxic Substances Control and the State Water Resources Control Board, to develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination of groundwater. *Existing law creates the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and continuously appropriates the money in that fund to the State Water Resources Control Board for specified purposes with regard to the Porter-Cologne Water Quality Control Act.*

~~This bill would instead require the State Department of Public Health, in collaboration with those agencies, to develop guidelines governing this repayment. The bill would authorize require the department to enter into an agreement with a grantee that would require the grantee to attempt to recover the costs from responsible parties and would allow grantees to utilize the repayments to fund activities authorized in the agreement. The bill would also make a declaration concerning the utilization of those repayments adopt the implementing regulations as emergency regulations, pursuant to a specified procedure, and would require the emergency regulations to remain in effect for 180 days after the effective date of those emergency regulations, by which time the department would be required to adopt regulations.~~

The bill would require the regulations to include a provision allowing the department to enter into an agreement with a grantee that would authorize the expenditure of the recovered funds to implement ongoing treatment and remediation activities in accordance with the purposes for which funds may be granted pursuant to the bond act.

The bill would establish the Groundwater Contamination Prevention Account in the State Treasury and would require the State Department of Public Health to deposit in that account the funds recovered from responsible parties pursuant to the payment recovery provisions in the bond act. The bill would continuously appropriate funds in the account to the State Department of Public Health for purposes of implementing the groundwater contamination cleanup and prevention provisions of the bond act, thereby making an appropriation.

The bill would authorize the department to expend up to 3% of the recovered funds deposited annually in the Groundwater Contamination Prevention Account to pay for the department's oversight costs and would authorize the department to enter into a memorandum of

understanding with the State Water Resources Control Board to expend the funds in the State Water Pollution Cleanup and Abatement Account to administer the recovered funds, thereby making an appropriation.

(2) ~~The~~ This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~The Legislature finds and declares that it is the~~
2 ~~intent of the Legislature that the State Department of Public Health,~~
3 ~~when adopting guidelines pursuant to Section 75101 of the Public~~
4 ~~Resources Code, address the criteria under which a grantee may~~
5 ~~utilize the repayments recovered from responsible parties to fund~~
6 ~~ongoing or additional groundwater cleanup activities within its~~
7 ~~jurisdiction. The Legislature further finds and declares that it is~~
8 ~~the intent of the Legislature that, in determining the circumstances~~
9 ~~when repayments may be utilized by a grantee for additional~~
10 ~~groundwater cleanup activities, the department give preference to~~
11 ~~projects that meet one or more of the following conditions:~~

12 ~~(a) The grant amount awarded to the grantee by the department~~
13 ~~and the amount recovered from the responsible party, in total, do~~
14 ~~not exceed the grantee's total cost either to clean up the~~
15 ~~contaminated groundwater or to prevent the groundwater from~~
16 ~~becoming contaminated.~~

17 ~~(b) The grantee has additional areas of groundwater~~
18 ~~contamination within its jurisdiction for which there is no~~
19 ~~potentially responsible party, and the repayment will be used to~~
20 ~~clean up groundwater contamination in one or more of those~~
21 ~~locations.~~

22 ~~(c) The repayment will be used to clean up areas of groundwater~~
23 ~~contamination within the grantee's jurisdiction where costs~~
24 ~~recovered from responsible parties are insufficient to pay for the~~
25 ~~full costs of cleanup.~~

26 ~~(d) Groundwater is the primary source of drinking water, and~~
27 ~~the grantee will use the repayment for groundwater contamination~~
28 ~~cleanup activities at additional sites within its jurisdiction that are~~
29 ~~on the list maintained by the Department of Toxic Substances~~
30 ~~Control pursuant to Section 25356 of the Health and Safety Code~~

~~or the National Priorities List pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).~~

~~SEC. 2.~~

SECTION 1. Section 75101 of the Public Resources Code is amended to read:

75101. (a) For the purposes of implementing Section 75025, the State Department of Public Health shall do all of the following:

(1) Develop guidelines pursuant to Section 75100 in collaboration with the Department of Toxic Substances Control and the state board.

(2) (A) In collaboration with the Department of Toxic Substances Control and the state board, develop and adopt ~~guidelines~~ *regulations* governing the repayment of costs that are subsequently recovered from parties responsible for the contamination.

(B) ~~The guidelines may include a provision to allocate~~ *State Department of Public Health shall adopt the initial regulations required pursuant to this paragraph as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until 180 days after the effective date of the emergency regulations. On or before 180 days after the effective date of the emergency regulations, the State Department of Public Health shall adopt regulations pursuant to this paragraph in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code up to 3*

(C) *There is hereby established the Groundwater Contamination Prevention Account in the State Treasury. The State Department of Public Health shall deposit all funds recovered from responsible*

1 parties pursuant to Section 75025 in the Groundwater
2 Contamination Prevention Account. The funds in the account are
3 hereby continuously appropriated to the State Department of Public
4 Health for purposes of implementing Section 75025, as specified
5 in this section.

6 (D) The State Department of Public Health may expend percent
7 of the recovered funds deposited annually in the Groundwater
8 Contamination Prevention Account to pay for the oversight costs
9 of the State Department of Public Health to ensure the grantee
10 expends the recovered funds on additional groundwater cleanup
11 activities in furtherance of the purposes of Section 75025.
12 Notwithstanding Section 13441 of the Water Code, the State
13 Department of Public Health may also enter into a memorandum
14 of understanding with the state board to expend the funds in the
15 State Water Pollution Cleanup and Abatement Account created
16 pursuant to Section 13440 of the Water Code to administer the
17 recovered funds.

18 (E) The regulations adopted pursuant to this paragraph shall
19 include a provision authorizing the State Department of Public
20 Health to enter into an agreement with a grantee that would
21 authorize the expenditure of the recovered funds to implement
22 ongoing treatment and remediation activities in accordance with
23 the purposes for which funds may be granted pursuant to Section
24 75025.

25 ~~(b) The State Department of Public Health may include, in an~~
26 ~~agreement between a grantee and the department for funds granted~~
27 ~~pursuant to Section 75025, all of the following provisions:~~

28 ~~(1) A requirement that the grantee take appropriate action to~~
29 ~~attempt to recover the costs of cleanup from the parties responsible~~
30 ~~for the contamination.~~

31 ~~(2) A specification that any funds recovered by the grantee~~
32 ~~pursuant to paragraph (1) are deemed to be under the control and~~
33 ~~authority of, and thereby repaid to, the state.~~

34 ~~(3) A provision that allows the grantee to utilize the costs~~
35 ~~recovered from the responsible parties for the purposes specified~~
36 ~~in the agreement, including, but not limited to, ongoing~~
37 ~~groundwater cleanup activities, in accordance with the purposes~~
38 ~~for which funds may be granted pursuant to Section 75025.~~

39 (e)

(b) For the purposes of implementing subdivision (a) of Section 75050, the Department of Fish and Game, when funding a natural community conservation plan, shall fund only the development of a natural community conservation plan that is consistent with the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code).

(d)

(c) The San Francisco Bay Area Conservancy may use the funds made available pursuant to subdivision (c) of Section 75060 to restore the salt ponds in the south San Francisco Bay and to create trails and visitor facilities for public use in that area.

~~SEC. 3.~~

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow a grantee conducting groundwater cleanup activities to continue those activities, thereby better protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CORRECTIONS:

Text—Pages 4 and 5.